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Agenda item 7

DRAFT REPORT OF THE STANDING COMMITTEE ON DEVELOPING SERVICES SECTORS: FOSTERING COMPETITIVE SERVICES SECTORS IN DEVELOPING COUNTRIES - SHIPPING ON ITS THIRD SESSION

Rapporteur: Mr. Abdul Wahab Arsad (Malaysia)

INTRODUCTION, GENERAL DEBATE AND ORGANIZATIONAL MATTERS

Speakers:

Deputy to the Secretary-General of UNCTAD
Officer-in-charge of the Services Development Division
Czech Republic
Russian Federation
France (for European Union)
Ghana (for African Group)
FIATA

Note for Delegations

This draft report is a provisional text circulated for clearance by delegations.

Requests for amendments - to be submitted in English or French - should be communicated by **Friday, 16 June 1995** at the latest to:

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INTRODUCTION

1. The Standing Committee on Developing Services Sectors: Fostering Competitive Services Sectors in Developing Countries - Shipping, established in accordance with paragraphs 70 and 72 of the Cartagena Commitment, held its third session at the Palais des Nations, Geneva, from 6 to .. June 1995. In the course of the session, the Standing Committee held ..... plenary meetings. */

Introductory statements

2. The **Deputy to the Secretary-General of UNCTAD** noted the importance of the Standing Committee's third session at a time when stock was being taken of the implementation of the recommendations agreed at Cartagena and preparations were being made for UNCTAD IX. He stressed the importance of international maritime transport services in enabling the developing countries, particularly the least developed ones, to participate more effectively in the globalization and liberalization processes, emphasizing also that transport efficiency was a prerequisite for trade efficiency.

3. Some coordination and harmonization of policy reform programmes for maritime transport services was called for to avoid a proliferation of policies which could hamper rather than promote development. To assist suppliers of shipping services from developing countries and countries in transition, mechanisms should be developed to manage the process of liberalizing trade in shipping services. A gradual and phased policy of liberalization would enable those countries with national fleets to develop competitive services and thus benefit from trade in shipping services.

4. Multimodal transport operations offered significant benefits to international trade, even though mega carriers could threaten national transport industries. However, the lack of a harmonized international legal environment and of national

multimodal transport regulations often impeded the development of this form of transport. Modern commercial and technical practices used in multimodal transport could allow transport operators from developing countries and countries in transition to improve rapidly the quality and price of services offered and at the same time make greater use of rail, inland waterways and short-sea shipping.

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*/ For the terms of reference of the Standing Committee, see Trade and Development Board decision 398 (XXXVIII), annex B.

5. With the globalization of manufacturing, ports were now playing a key role in the production and distribution process. Inefficient ports and port services could render exporters' goods less competitive in the international market place, and Governments and port authorities thus needed to adopt policies that would contribute to efficient management and sustainable development of ports and related port services.

6. In the field of maritime legislation, work had been carried out with the various sectors of the shipping and insurance industries to reform and simplify certain rules and practices. Presently work was ongoing, via the Joint UNCTAD/IMO Intergovernmental Group of Experts, to review the 1952 International Convention on the Arrest of Sea-going Ships.

7. Technical cooperation had allowed UNCTAD to implement the results of its research work for the benefit of developing countries. In particular he thanked the Governments of Belgium, France and Germany and the European Commission for the support they had given to the Advance Cargo Information System project for logistics management. Emphasis continued to be placed on human resource development to allow developing countries to become self-sufficient. With this objective in view, the TRAINMAR programme was playing a leading role in the development of training capability in developing countries, and he thanked those donors who had made this work possible.

8. The **Officer-in-charge of the Services Development Division** recalled the discussions which had taken place at the second session of the Standing Committee and noted that it had been the general view that, because of its importance, shipping policy reform should be further discussed at the Committee's third session. To assist the deliberations, the secretariat had prepared two background documents, namely "Progressive liberalization and the development of shipping

services in developing countries" (UNCTAD/SDD/SHIP/5) and "Maritime policy reform in the NIS of the former Soviet Union" (UNCTAD/SDD/SHIP/4). In the view of the secretariat, any specific recommendations in the field of shipping should centre around the formulation and implementation of policy reform programmes. The secretariat did not consider it necessary to have a general discussion on the merits or otherwise of the concept of liberalization, although it was useful to have discussions on specific issues such as the management of the liberalization process and the definition of the future role which UNCTAD in general and the Committee in particular could play in the process of liberalization.

9. Liberalization and globalization would be the underlying themes of UNCTAD IX. In his opinion globalization could only take place if there was an effective transport system to support it. The secretariat strongly believed that the formulation of national and international measures to promote growth and sustainable development required the support of maritime transport.

10. Human resources development had been given prominence in the work of the secretariat, since for developing countries to achieve economic development, it was indispensable to enhance the skills and knowledge of the workforce. To this end, the Division had established various programmes, the most prominent of which was TRAINMAR, which had been in existence for more than a decade and from which many employees in the maritime industry in developing countries had benefited.

11. The Division had been working on the medium-term budget for the biennium 1996-1997. This had required anticipating the results of the current session of the Committee and of UNCTAD IX. He assured the Committee that the secretariat would be prepared to fulfil the work programme established for it within the resources allocated to it.

12. Referring to suggestions made at the Committee's second session concerning transparency, he pointed out that the secretariat had produced a review of the Division's activities (TD/B/CN.4/Misc.10), and he hoped that the Committee would examine the contents of the document and make suggestions as appropriate. He informed the Committee on the collaboration with the International Maritime Organization, and in this connection he said that, as a result of the adoption by the United Nations Conference on Environment and Development of Agenda 21 of Chapter 17 of its Programme, dealing with ocean affairs, the Secretary-General of the United Nations was required to report on the implementation of that particular aspect of the Programme to the General Assembly in 1997. To assist the Secretary-

General in that respect, UNCTAD was expected by the other agencies to assist in the development of ideas and possibly mechanisms through which some of the costs of environmental actions could be recovered for the providers of certain specific services. One of the practical issues that UNCTAD and IMO were dealing with jointly was the development of a system by which costs for providing reception facilities for oily waters to tankers in their loading ports could be recovered. He believed that a progress report on this issue would be discussed in the forthcoming IMO Council. There were other issues under discussion in the area of coastal management, which was linked to the Barbados Plan of Action and for which UNCTAD had responsibility.

Chapter I

GENERAL DEBATE

13. The representative of the **Czech Republic** informed the Committee about the situation of the transport sector in his country, the location of which meant that it had an important role to play in the trade of Europe. The transport reforms that were taking place in his country went hand in hand with the economic reforms being undertaken since 1990; the Czech parliament had already enacted new legislation on road traffic, railways and inland navigation, and new legislation on civil aviation and ocean navigation was being prepared. The Czech transport infrastructure was important for the integration of European transport networks. He also informed the Committee about the programme for the construction of a network of motorways, railways and airports.

14. Referring to multimodal transport, he noted that in the short history of multimodal transport in the Czech Republic, conditions had not been right for the development of this system, which was now applied all over the world. However, due to pressure from its trading partners, the Czech Republic was now forced to containerize. The main problems hindering multimodal transport operations continued to be poor infrastructure and border-crossing operations and regulations. To solve some of these problems, efforts would have to be made in respect of coordination of border-crossing procedures, liberalization of terminal operations, road haulage, government support in the provision of terminal infrastructure and operations and the development of multimodal transport operators. Such efforts were currently being made within the framework of a programme established by the Ministry of Transport.

15. The representative of the **Russian Federation** said that UNCTAD and its Standing Committee on Developing Services Sectors had an important role to play in establishing sustainable and equitable cooperation in the field of maritime transport, excluding all forms of discrimination and economic sanctions. The UNCTAD secretariat had prepared high-quality documentation for the Committee's session, but in that connection he suggested that, in its future activities, the secretariat should make recommendations on the improvement of maritime transport, taking into account the needs of countries in transition. The recent developments in the shipping policies of his country were closely linked with the profound changes in the economic environment, for example privatization, conversion of state enterprises into shareholding companies and free pricing, which were directed

towards the creation of a competitive environment. At the same time, a licensing system had been introduced in the maritime sector and for related activities. Work was being carried out on a new maritime code, on adherence to the Paris Memorandum on Ports, and on signing maritime agreements with the other Republics of the former Soviet Union. He considered that, with the creation of the World Trade Organization, UNCTAD and its Standing Committee on Developing Services Sectors should take an innovative approach to the problems of world maritime transport and develop effective cooperation with other international organizations.

16. The representative of **France**, speaking on behalf of the **European Union**, said that maritime transport played an important role in world transport. It carried a substantial part of international trade, and at the same time contributed to economic development. The European Union had welcomed the adoption of the Cartagena Commitment in 1992, which permitted UNCTAD to address concrete issues of maritime transport with a view to the promotion of market-oriented policies. The advantages of open markets were now more accepted as allowing efficient and competitive maritime transport services. The European Union was convinced that economic development was ill-served by protectionist maritime policies, since they distorted markets and increased costs.

17. The third session of the Standing Committee was taking place at an important time in the life of UNCTAD. For example, with regard to its work on liberalization, consideration had to be given to the work of the World Trade Organization. The Committee also had to consider the future of UNCTAD in the context of the work of UNCTAD IX. He emphasized that UNCTAD remained an unequalled forum for negotiations between developed and developing countries, and within the United Nations it was the only body with competence in maritime matters.

18. The work of UNCTAD in maritime transport would succeed if a number of conditions were met, namely universal participation by as many parties as possible, particularly developing countries, the setting of realistic goals and the completion of programmes before embarking on new initiatives. He suggested that, in this connection, the programmes on training and human resources development must be encouraged so as to meet the needs of developing countries.

19. The representative of the **European Community**, referring to document TD/B/CN.4/48, said that, with regard to the impact of progressive liberalization on the development of shipping services, he had serious doubts that the Committee could embark on the harmonization of liberalization policies, or establish a

regulatory mechanism for liberalization and privatization. He pointed out that each country found itself in a situation where it had to take measures suited to its particular circumstances. He also pointed out that there was a risk of interfering with the GATS negotiations at the WTO, where the approach taken was one of negotiating commitments of individual countries rather than trying to determine a harmonized approach to liberalization. In his view, a harmonized approach should be avoided both as a matter of principle and on practical grounds.

20. With regard to changes in national practices covering shipper/ocean-carrier relations and specifically the suggestion to formulate and implement consumer policies with regard to shipping services, he said that, as long there existed effective competition, he saw no reason why government intervention would be necessary to ensure high-quality, low-price shipping services. Furthermore, in the view of the Commission, a redefinition of the role of shippers' councils in developing countries should not be the task of governmental or intergovernmental bodies, since it was precisely that approach which had led to the current unsatisfactory situation in some of the developing countries. In his view, the redefinition should be left to professional organizations, although during the discussions in the Committee the possible role to be played by UNCTAD could be considered.

21. With regard to ship financing, the report of the secretariat confirmed the view of the Commission that it was the commercial soundness of a project that counted rather than whether a company was from a developed or a developing country. On the issue of ports and port services, he noted that useful work had been carried out, and the Commission was prepared to look in detail at the initiatives which the UNCTAD secretariat was suggesting.

22. Concerning multimodal transport (TD/B/CN.4/46), with regard to the recommendations made concerning the impact of multimodal transport systems and tariffs on trading opportunities in the context of liberalization and privatization, the Commission would give close consideration to any views that might be expressed by representatives of the industry before considering requests arising from the deliberations of the Committee. As regards developments in containerization and related transport technology, specifically the impact of MT systems and tariffs on trading opportunities in the context of liberalization and privatization, he agreed on the usefulness of continuing to monitor developments. However, he doubted the need for the proposed seminar on the basis of the mandate given to the Committee. Referring to chapter 2 of document TD/B/CN.4/46 on future

work on multimodal transport, he appreciated the effort made in undertaking a wide-ranging survey of issues, but he was reluctant to accept the programme, which was ambitious and the need for which had not been demonstrated in relation to the mandate given to the Committee. He also recalled that, in adopting its programme of work, the Committee had not wished to approve the activities which were being proposed, and in particular he cast particular doubt on some of the "general policy issues" on the list, although some of them would appear to be useful. Specifically, the European Commission believed that there was no particular interest in global harmonization of multimodal transport legislation. As regards the development of telematics and software tools, he believed that, without the application of such technologies, shipping companies and multimodal operators of developing countries would be at a competitive disadvantage, and he therefore welcomed the suggestion to monitor and to distribute information on technological developments in the industry in developing countries, in close collaboration with other international organizations.

23. On maritime and transport legislation, he said that he would like to see UNCTAD concentrate its activities on monitoring legal problems encountered by developing countries in the field of shipping. Document TD/B/CN.4/48 envisaged the undertaking of substantive work relating to legal aspects of ship leasing in developing countries in order to prepare model legislation as guidelines for developing countries and promote awareness on the operation and functioning of ship leasing. Concerning the first issue, namely model legislation, only experts in the area of ship leasing could give proper opinions and, in any case, such work, if needed, would be within the competence of international organizations dealing with legal work. On the other hand, the promotion of awareness on the operation and functioning of ship leasing was appropriate.

24. Finally, with regard to strengthening technical cooperation and human resource development (TD/B/CN.4/47), he noted that this type of activity was potentially very helpful to developing countries, and the Commission took a generally positive view of the work of the UNCTAD secretariat in this area. The Commission continued to attach importance to technical cooperation, which had also been endorsed by UNCTAD VIII. He underlined that such technical cooperation was meant to support and assist developing countries in identifying their weaknesses and capabilities in the services sector and making it more competitive.

25. The spokesman for the **African Group** (Ghana) acknowledged the important role played by UNCTAD in the development of the maritime transport sector. He noted

that the World Trade Organization provided a framework for opening world markets, while UNCTAD provided a framework for the orderly development of economies and the transport sector. The principles established in WTO, for example national treatment, required studies and guidance. He suggested that competition rules should be looked at in order to assist operators in developing countries. He also acknowledged the role of UNCTAD in developing the Advance Cargo Information System, which he considered to be an instrument for liberalization. He noted that the Railtracker and Harbourmaster systems had started to have an impact in some developing countries. He pointed out that, while liberalization might promote efficiency, poor management had always been a main cause of lack of competitiveness in developing countries. He therefore suggested that training was a critical requirement. He noted that programmes carried out by the World Bank, because they relied on aggregated statistics, tended to obscure the needs of individual countries, and it was important to give due consideration to the differences that existed between different countries. Finally, he referred to proposals being made by developed countries to do away with shippers' councils in developing countries. In this connection he noted that developing countries required special arrangements to support competition, and further review of this question was therefore required.

26. The representative of the **International Federation of Freight Forwarders Associations** (FIATA) stressed that freight forwarders acted as carriers accepting overall responsibility for the transport chain and, by issuing a single transport document, for instance the FIATA Multimodal Transport Bill of Lading, backed up by a liability insurance cover, were becoming MTOs. He supported UNCTAD's view that privatization of state-owned transport enterprises would increase their efficiency. He stressed that any inland price fixing cartel operated by maritime carriers would eliminate free competition in multimodal transport to the detriment of shippers and would be harmful to multimodal transport providers, especially in developing countries. FIATA viewed the formation of joint ventures between freight forwarders from developing and developed countries as a useful tool to overcome structural weaknesses. However, joint ventures should also promote training as a means of increasing freight forwarders' professional status in developing countries, if necessary. Regarding the creation of national trade and transport facilitation committees, FIATA felt that such a consultation mechanism could contribute to the removal of obstacles and promote multimodal transport. However, it should not impede the flexibility of freight forwarders and transport operators. He felt that the establishment of voluntary minimum standards for MTOs would constitute an inflexible frame and would not prevent fraudulent actions. FIATA was of the opinion that it would be necessary to harmonize the introduction of multimodal

transport legislation in the different parts of the world on a contractual basis within the freight forwarding industry itself. He suggested that harmonization of multimodal transport legislation at the global level could be undertaken by UNCTAD with the assistance of FIATA. Regarding container standards, he felt that the freight- forwarding industry was interested in as few internationally accepted dimensions as possible. To reduce the negative effects of transport on the environment, he offered FIATA's cooperation in the development of appropriate strategies. Finally, he noted that FIATA did not consider quality assurance as the main thrust for improved competitiveness of multimodal transport providers, but suggested that training should play a major role in the improvement of the professional status of transport providers.

Chapter V

ORGANIZATIONAL MATTERS

A. Opening of the session

27. The third session of the Standing Committee on Developing Services Sectors (Shipping) was opened on 6 June 1995 by Mr. M. Meynet (France).

B. Election of officers

(Agenda item 1)

28. In accordance with the rules of procedure of the main Committees of the Trade and Development Board and the decision taken by the Board at the first part of its thirty-ninth session, the Standing Committee on Developing Services Sectors (Shipping), at its 10th (opening) meeting on 6 June 1995, elected the officers to serve on the Bureau of the third session as follows:

Chairman:	Mr. Sergio García Torres	(Colombia)
Vice-Chairman:	Mr. Paolo Octavio de Paiva Almeida	(Brazil)
	Mr. Krysztof Dabrowski	(Poland)
	Mr. Andrew Togba Davies	(Liberia)
	Mr. Douglas Pelkola	(Canada)
	Mr. Stefan Schimming	(Germany)
Rapporteur:	Mr. A. Wahab Arsad	(Malaysia)

C. Adoption of the agenda and organization of work

(Agenda item 2)

29. Also at its opening meeting, the Standing Committee adopted the provisional agenda circulated in TD/B/CN.4/45 and endorsed the suggestions therein for the organization of work. The agenda for the third session therefore read as follows:

1. Election of officers

2. Adoption of the agenda and organization of work

3. Fostering competitive multinational transport services

4. Strengthening technical cooperation and human resource development

5. Review of the work programme of the Standing Committee, with special emphasis on the preparations for UNCTAD IX

6. Other business

7. Adoption of the report of the Standing Committee (Shipping) to the Trade and Development Board.

D. Adoption of the report of the Standing Committee (Shipping) to the Trade and Development Board

(Agenda item 7)

[To be completed]